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Attorney for Defendant

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

X

CASE NO. 08 CV. 3448 (WHP)

**TRUSTEES of the MASON TENDERS
DISTRICT COUNCIL WELFARE FUND,
PENSION FUND, ANNUITY FUND and
TRAINING PROGRAM FUND**

Plaintiff

-against-

**ANSWER AND SEPARATE
DEFENSES**

PRIME ENVIRONMENTAL SERVICES, INC.

Defendant

X

Defendant, Prime Environmental Services, Inc, by way of
answer to plaintiff's complaint, says:

1. Defendant neither admits nor denies the allegations
contained in paragraphs 1 through 5 of the complaint, but leaves
plaintiff to its proofs.

2. Defendant admits the allegations contained in
paragraphs 6 and 7.

3. Defendant neither admits nor denies the allegations
contained in paragraphs 8 through 12 of the complaint, but leaves

plaintiff to its proofs.

4. As to paragraphs 13, 14 and 15 of the complaint defendant admits that there was work performed and monies due to the Fund but denies that the amounts were as stated in the complaint. Prime believes that a correct audit will show that the amounts due are less than stated in paragraphs 13, 14 and 15.

5. Defendant denies the allegations contained in paragraphs 16 and 17

6. Defendant repeats and realleges its answers to Paragraphs 1 through 17 of the complaint as if set forth herein at length.

7. As to paragraphs 19, 20, 21, 22 and 23 of the complaint defendant admits that there exist dues checkoffs and PAC contributions but denies the amounts stated in the complaint. Prime believes that a correct audit will show that the amounts due are less than stated in paragraphs 19 through 23.

8. Defendant repeats and realleges its answers to Paragraphs 1 through 23 of the complaint as if set forth herein at length.

9. As to paragraphs 25 through 27 defendant admits a duty to cooperate and has repeatedly requested the Fund to perform an audit.

10. Defendant repeats and realleges its answers to Paragraphs 1 through 27 of the complaint as if set forth herein at length.

11. Defendant denies the allegations of paragraphs 29 through 33 of the complaint.

12. Defendant repeats and realleges its answers to Paragraphs 1 through 33 of the complaint as if set forth herein at length.

13. Defendant denies the allegations of paragraphs 35 through 39 of the complaint

SEPARATE DEFENSES

FIRST: The action of plaintiff is barred by the statute of limitations.

SECOND: Plaintiff is guilty of contributory negligence and the negligence of plaintiff is greater than that of answering defendant; therefore, plaintiff is barred from recovery.

THIRD: The complaint fails to state a claim upon which relief can be granted as against the answering defendant

FOURTH The answering defendant reserves the right to amend this answer to assert additional defenses and to make further admissions upon completion of further investigation and discovery.

WHEREFORE, defendant demands judgment against plaintiff dismissing the complaint, together with interest, costs of suit, attorneys fees, and such other and further relief as the court deems just and equitable.

DATED: may 29, 2008
New York, New York

Yours, etc.

/s/ John Weichsel

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